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EXAMINER

SHIN, KYUNG H

ART UNIT

PAPER NUMBER

2443

NOTIFICATION DATE

DELIVERY MODE

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ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

roks@microsoft.com  
ntovar@microsoft.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/728,023	<b>Applicant(s)</b> PETTIGREW ET AL.	
	<b>Examiner</b> Kyung Hye Shin	<b>Art Unit</b> 2443	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 - 3, 5 - 36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 3, 5 - 36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7-8-2009 has been entered.

1. Claims **1 - 3, 5 - 36** are pending. Claim **5** has been amended. Claim **4** has been cancelled. Claims **1, 13, 24** are independent. This application was filed on 12-3-2003.

### ***Claim Objections***

2. Claims 31 and 32 objected to because of the following informalities: This claim depends on method claim 30 but it writes as a system claim. Claim 32 has unnecessary apostrophe after method. Examiner interprets those are typo. Appropriate correction is required.

### ***Response to Arguments***

3. Applicant's arguments have been fully considered but they are moot due to new grounds of rejection.

The double patenting rejection must remain until the Terminal Disclaimer is actually filed. Applicant's representative has stated in arguments dated 8-8-2007: "Applicants intend to file a terminal disclaimer when the double patenting rejection becomes final and when the claims of the present application are allowed."

### ***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed **terminal disclaimer** in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

- 4.1 Claims 1 - 36 are **provisionally** rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over, claims 1 - 33 of copending Application No. 10/690,422; claims 1 - 33 of copending Application No. 10/849,090; and claims 1 - 33 of copending Application No. 10/994,010.

This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending applications and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter,

Claims of the instant application therefore are not patently distinct from the other application claims and as such are unpatentable over obvious-type double patenting. Later applications claims are not patentably distinct from earlier claims, if the later claims are anticipated by the earlier claim.

- 4.2 Although the conflicting claims are not identical, they are not patentably distinct

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from each other, because the subject matter claimed in the instant application is fully disclosed in the referenced copending applications: claims 1, 5, 9, 10, 26, 30 of copending Application No. 10/690,422; claims 13, 30 of copending Application No. 10/849,090; and claims 1, 13 of copending Application No. 10/994,010, and would be covered by any patent granted on that copending application since the referenced copending applications and the instant application are claiming common subject matter.

This is a provisional obviousness-type double patenting rejection.

***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims **1 - 23** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims **1 - 23** are to be construed as a system of "*software per se*", unless the specification makes clear the only reasonable interpretation of the word "system" is limited to hardware inclusive tangible embodiments. The specification in paragraph 022 discloses that each of the system and system components may represent hardware and/or software to perform the logic steps or processes and therefore directed toward non-statutory subject matter.

Specification Paragraph 022:

[0022] Figure 2 is a block diagram illustrating the operation of a system 120 for detecting spam e-mail, according to the present invention. While Figure 2 will be primarily described in relation to a system and system components, it should be appreciated that each of the portions or blocks illustrated in Figure 2 (as well as the portions or blocks illustrated in the other Figures) may represent logic steps or processes and/or the hardware and/or software utilized to perform the logic steps or processes. It should further be appreciated that the processes of any one or more of the portions or blocks shown can be implemented in a computer readable medium for controlling the operation of a computer.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims **1 - 3, 5, 8 - 10, 13 - 16, 19 - 21, 24 - 27, 30 - 32, 35, 36** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Gould et al.** (US Patent No. **7,346,700**) in view of **Liu** (US PG PUB No. **20050015455**) and further in view of **Corl, Jr et al.** (US Patent No. **7,403,999**) and **Schuba et al.** (US Patent No. **6,725,378**).

**Regarding Claims 1, 13**, Gould discloses a computer system for processing e-mail comprising:

wherein servers that receive e-mail messages for a plurality of different remotely located clients (Gould col 8, l 66 - col 9, l 1: monitor email traffic of multiple users (clients)), the plurality of server being part of a distributed network,

wherein each packet sniffer is configured to extract originating IP addresses associated with e-mail messages that are communicated to the clients over the distributed network. (Gould col 4, ll 59-62: parses (extract) information from e-mail message and obtains IP address of computer from which e-mail message originated (originating IP address))

Furthermore, Gould discloses wherein a central monitor (Gould col 2, ll 31-40: email

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governor (central monitor); monitor email traffic from a specific IP address (originating IP address))

that communicates with the packet sniffers and that monitors data regarding the originating IP addresses, wherein the central monitor is configured to determine whether traffic from an originating address has exceeded a threshold value (Gould col 3, ll 47-51: determine whether email message rate exceeds an email message rate threshold),

the central monitor being further configured to generate a response to detect spam e-mail messages if the threshold value has been exceeded. (Gould col 2, ll 44-47: take action when rate exceeds a predetermined limit (threshold))

Furthermore, Gould discloses wherein extracts from the received packet originating IP addresses associated with e-mail messages that are communicated to the clients over the network. (Gould col 4, ll 59-62: parses (extracts) information from IP header from e-mail message and obtains IP address of computer from which e-mail message originated (originating IP address))

A distributed processing configuration is a well known in the art data processing configuration.

Gould does not explicitly disclose a distributed network, a plurality of packet sniffers, and a plurality of servers.

However, Liu discloses a distributed processing configuration wherein:  
a plurality of servers, the plurality of servers being part of a distributed network;  
a plurality of packet sniffers, wherein each of the packet sniffers in the plurality of  
packets sniffers corresponds to and resides in a different server in the plurality of  
servers; distributed network with the plurality of packet sniffers; a server in which  
the central monitor resides, wherein the server is distinct from each of the  
plurality of servers containing the plurality of packet sniffers in the plurality of  
packet sniffers in the distributed network. (Liu Figure 1 (33); (9): one SPAM filter  
for each mail server; para 0038, ll 13-14; para 041, ll 1-5; para 054, ll 2-5: one  
SPAM filter (pack sniffer) for mail server; multiple servers; multiple SPAM filters  
(packet sniffers))

It would have been obvious to one of ordinary skill in the art to modify Gould to  
use a distributed processing configuration for e-mail processing system as taught by  
Liu. One of ordinary skill in the art would have been motivated to employ the  
teachings of Liu to share information that could be correlated to detect the signature  
of spammers and enable operation within a distributed architecture. (Liu col. 9,  
lines 18-20)

Gould-Liu does not explicitly disclose to check a fragment offset field.

However, Corl discloses:

a) check a fragment offset field of an IP header to ensure the IP header is the first  
fragment of a packet; (Corl col 4, ll 38-48: source address and fragment ID are



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extracted from IP header; determine whether the fragment is a sequentially first fragment of a fragment IP packet)

It would have been obvious to one of ordinary skill in the art to modify Gould-Liu to check a fragment offset field as taught by Corl. One of ordinary skill in the art would have been motivated to employ the teachings of Corl to robustly and efficiently classify IP fragments, thereby allowing classification to be performed by wire-speed network processors. (Corl col 5, ll 41-47)

Gould-Liu-Corl does not explicitly disclose when a SYN bit has not been set.

However, Schuba discloses:

b) determine the value of a SYN bit in a TCP header; c) disregarding the packet if the SYN bit has not been set; (see Schuba col 5, ll 14-16: traffic flow; col 5, ll 37-43: packet will be discarded if SYN bit is not set)

It would have been obvious to one of ordinary skill in the art to modify Gould-Liu-Corl for when a SYN bit has not been set as taught by Schuba. One of ordinary skill in the art would have been motivated to employ the teachings of Schuba to reduce, if not eliminate, the impact of denial of service attacks such as SYN flooding. (Schuba col 1, ll 51-53)

**Regarding Claim 2**, Gould discloses the system of claim 1:

wherein each server checks the originating IP addresses of incoming connections. (Gould col 2, ll 31-40: monitoring e-mail messaging; monitor and regulate the number of e-mail messages originating from an IP address; col 2, ll 44-47: take

action when rate exceeds a predetermined limit (threshold))

Gould does not explicitly disclose a blacklist containing IP addresses that have been determined to be generating spam e-mail messages, and rejecting any connection originating from an address on the blacklist.

However, Liu discloses:

each of the servers further includes a blacklist containing IP addresses that have been determined to be generating spam e-mail messages; (Liu para 010, II 1-5; para 044, II 1-5: blacklist for IP addresses for spam) and each server checks the originating IP addresses of incoming connections to the addresses contained in the blacklist, and rejects any connection originating from an address on the blacklist. (Liu para 044, II 1-5: blacklist of IP addresses for spammers; messages from these senders will not be delivered)

It would have been obvious to one of ordinary skill in the art to modify Gould to add the originating IP address to the blacklist as taught by Liu. One of ordinary skill in the art would have been motivated to employ the teachings of Liu in order to share information that could be correlated to detect the signature of spammers and enable operation in a distributed architecture. (Liu col. 9, lines 18-20)

**Regarding Claim 3**, Gould discloses the system of claim 1 wherein each of the servers further includes a message switch that determines whether e-mail messages are spam. (Gould col 2, II 28-31: differentiating between legitimate e-mail and spam; monitoring the

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number of e-mail messages originating from an IP address), and communicates e-mail messages to clients. (Gould col 3, ll 18-21: if e-mail message rate does not exceed rate threshold; send e-mail message towards its destination)

**Regarding Claims 5, 16, 32**, Gould discloses the system, method of claims 3, 13, 24 further comprising:

a spam database for storing rules for determining whether e-mail messages are spam; (Gould col 9, ll 40-47: determination (rules) whether e-mail sent from originating IP address is spam)

wherein the message switch determines whether e-mail messages are spam based on the rules within the spam database. (Gould col 2, l 61 - col 3, l 3: e-mail governor (switch, device, software) monitors and determines whether mail message is spam)

**Regarding Claims 8, 19, 35**, Gould discloses the system, method of claims 1, 13, 24 wherein the response generated by the central monitor (Gould col 3, ll 8-17: email governor (central monitor)) comprises an alert that is communicated to a spam analyst. (Gould col 3, ll 8-14: email governor (central monitor); col 3, ll 23-26: send a message to service provider administrator (spam analyst))

**Regarding Claims 9, 31**, Gould discloses the system, method of claims 2, 30 (Gould col 2, ll 31-40: monitoring e-mail messaging; monitor and regulate the number of e-mail

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messages originating from an IP address; col 2, ll 44-47: take action when rate exceeds a predetermined limit (threshold)) and central monitor (Gould col 3, ll 8-17: email governor (central monitor)).

Gould does not explicitly disclose a command to add the originating IP address to the blacklist.

However, Liu discloses wherein the response generated by the monitor comprises a command to add the originating IP address to the blacklist. (Liu para 010, ll 1-5; para 044, ll 1-5: black list of known spammers; para 048, ll 1-5: user interface (command) to edit (add entry to) the black list)

It would have been obvious to one of ordinary skill in the art to modify Gould to add the originating IP address to the blacklist as taught by Liu. One of ordinary skill in the art would have been motivated to employ the teachings of Liu to share information that could be correlated to detect the signature of spammers and enable operation in a distributed architecture. (Liu col. 9, lines 18-20)

**Regarding Claims 10, 21, 27**, Gould discloses the system, method of claims 1, 13, 24 wherein the threshold value comprises a rate parameter. (Gould col 2, ll 31-40: monitoring e-mail messaging; monitor and regulate the number of e-mail messages originating from an IP address; col 2, ll 41-43: check the rate at which e-mail messages originate from a specific IP address)

**Regarding Claim 14**, Gould discloses the system of claim 13 wherein the central

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monitor (Gould col 3, ll 8-17: email governor (central monitor)) resides on a server separate from the packet sniffers. (Gould Figure 1; col 4, ll 32-35: email governor (central monitor); monitor and regulate number of e-mail messages originating from an IP address)

**Regarding Claims 15**, Gould discloses the system of claim 13. (Gould col 2, ll 31-40: monitoring e-mail messaging; monitor and regulate the number of e-mail messages originating from an IP address; col 2, ll 44-47: take action when rate exceeds a predetermined limit (threshold))

Gould does not explicitly disclose a blacklist, and the blacklist including IP addresses that have been determined to be generating spam.

However, Liu discloses a blacklist stored on each server, the blacklist including IP addresses that have been determined to be generating spam. (Liu para 044, ll 1-5: blacklist of IP addresses for spammers; messages from these senders will not be delivered)

It would have been obvious to one of ordinary skill in the art to modify Gould to add the originating IP address to the blacklist as taught by Liu. One of ordinary skill in the art would have been motivated to employ the teachings of Liu to share information that could be correlated to detect the signature of spammers and enable operation in a distributed architecture. (Liu col. 9, lines 18-20)

**Regarding Claims 20, 36**, Gould discloses the system of claims 13, 24 wherein the

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response generated by the central monitor comprises a command to the system to block future e-mail messages from the originating IP address. (Gould col 5, ll 47-51: e-mail governor (central monitor); col 5, ll 56-58: block mail messages from email address)

**Regarding Claims 24**, Gould discloses a method for processing e-mail and detecting spam e-mail messages, comprising:

extracting originating IP addresses associated with e-mail messages that are communicated to the plurality of remotely located clients; (Gould col 4, ll 59-62; parse (extract) information from e-mail message and obtain IP address from which the e-mail message originated)

monitoring data regarding originating IP addresses; (Gould col 3, ll 37-46: monitors the cumulative bytes of email messages from an IP address (originating IP address))

determining whether traffic from an originating IP address has exceeded a threshold value; (Gould col 5, ll 46-51: determines whether e-mail message rate exceed an email message rate threshold)

generating, at a central monitor, a response for use in detecting spam e-mail messages if the threshold value has been exceeded. (Gould col 3, ll 23-26: appropriate notification to administrator)

Furthermore, Gould discloses routing the e-mail messages for a plurality of different remotely located clients, and communicating the processed messages to the

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plurality of remotely located clients. (Gould col 3, ll 5-10; col 3, ll 18-21: route e-mail, if e-mail message rate does not exceed threshold e-mail sent to its destination; col 8, l 66 - col 7, l 1: traffic monitor traffic of all users (clients))

Gould does not explicitly disclose a distributed network including a plurality of servers that receive and process e-mail messages.

However, Liu discloses:

a distributed network including a plurality of servers that receive and process e-mail messages; (Liu Figure 1 (33); (9): one SPAM filter for each mail server; para 0038, ll 13-14; para 041, ll 1-5; para 054, ll 2-5: one SPAM filter (pack sniffer) for mail server; multiple servers; multiple SPAM filters (packet sniffers))

use of the plurality of servers; (Liu col 1, ll 32-41: e-mail processing system Figure 1 ((33); (9)): one SPAM filter for each mail server; para 0038, ll 13-14; para 041, ll 1-5; para 054, ll 2-5: one SPAM filter (pack sniffer) for mail server; multiple servers; multiple SPAM filters (packet sniffers))

It would have been obvious to one of ordinary skill in the art to modify Gould to enable a distributed processing configuration for e-mail processing system as taught by Liu. One of ordinary skill in the art would have been motivated to employ the teachings of Liu to share information that could be correlated to detect the signature of spammers and enable operation in a distributed architecture. (Liu col. 9, lines 18-20)

Gould-Liu does not explicitly disclose to check a fragment offset field.

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However, Corl discloses:

- a) check a fragment offset field of an IP header to ensure the IP header is the first fragment of a packet; (Corl col 4, ll 38-48: source address and fragment ID are extracted from IP header; determine whether the fragment is a sequentially first fragment of a fragment IP packet)

It would have been obvious to one of ordinary skill in the art to modify Gould-Liu to check a fragment offset field as taught by Corl. One of ordinary skill in the art would have been motivated to employ the teachings of Corl to robustly and efficiently classify IP fragments, thereby allowing classification to be performed by wire-speed network processors. (Corl col 5, ll 41-47)

Gould-Liu-Corl does not explicitly disclose when a SYN bit has not been set.

However, Schuba discloses:

- b) determine the value of a SYN bit in a TCP header; c) disregarding the packet if the SYN bit has not been set; (see Schuba col 5, ll 14-16: traffic flow; col 5, ll 37-43: packet will be discarded if SYN bit is not set)

It would have been obvious to one of ordinary skill in the art to modify Gould-Liu-Corl for when a SYN bit has not been set as taught by Schuba. One of ordinary skill in the art would have been motivated to employ the teachings of Schuba to reduce, if not eliminate, the impact of denial of service attacks such as SYN flooding. (Schuba col 1, ll 51-53) -

**Regarding Claims 25**, Gould discloses the method of claim 24 further comprising:



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storing data regarding the originating IP addresses in a database. (Gould col 4, l 63 - col 5, l 3: datastore receives origination IP address and other e-mail metrics, spam and message store)

**Regarding Claims 26**, Gould discloses the method of claim 24.

wherein checking addresses, and determining whether traffic from an originating IP address has exceeded a threshold. (Gould col 2, ll 31-40: monitoring e-mail messaging; monitor and regulate the number of e-mail messages originating from an IP address; col 2, ll 44-47: take action when rate exceeds a predetermined limit (threshold))

Gould does not explicitly disclose checking originating IP addresses against the list and determining whether traffic from an originating IP address has exceeded a threshold value only if the originating IP address is not in the list.

However, Liu discloses:

checking originating IP addresses against the list; (Liu para 044, ll 1-5: blacklist of IP addresses for spammers; messages from these senders will not be delivered)  
determining whether traffic from an originating IP address has exceeded a threshold value only if the originating IP address is not in the list. (Liu para 044, ll 1-5: blacklist of IP addresses for spammers; messages from these senders will not be delivered)

It would have been obvious to one of ordinary skill in the art to modify Gould to add the originating IP address to the blacklist as taught by Liu. One of ordinary skill

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in the art would have been motivated to employ the teachings of Liu to share information that could be correlated to detect the signature of spammers and enable operation in a distributed architecture. (Liu col. 9, lines 18-20)

**Regarding Claims 30**, Gould discloses the method of claim 24. (Gould col 2, ll 31-40: monitoring e-mail messaging; monitor and regulate the number of e-mail messages originating from an IP address; col 2, ll 44-47: take action when rate exceeds a predetermined limit (threshold))

Gould does not explicitly disclose a blacklist.

However, Liu discloses:

storing IP addresses that have been determined to be generating spam in a blacklist; (Liu para 044, ll 1-5: blacklist of IP addresses for spammers; messages from these senders will not be delivered)

checking originating IP addresses of incoming connections to the servers against the IP addresses contained in the blacklist; (Liu para 044, ll 1-5: blacklist of IP addresses for spammers; messages from these senders will not be delivered)

rejecting any connection originating from an IP address in the blacklist. (Liu para 044, ll 1-5: blacklist of IP addresses for spammers; messages from these senders will not be delivered)

It would have been obvious to one of ordinary skill in the art to modify Gould to use a blacklist as taught by Liu. One of ordinary skill in the art would have been motivated to employ the teachings of Liu to share information that could be

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correlated to detect the signature of spammers and enable operation in a distributed architecture. (Liu col. 9, lines 18-20)

9. Claims **6, 7, 17, 18, 33, 34** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Gould-Liu-Cori-Schuba** and further in view of **Bandini et al.** (US Patent No. **7,117,358**).

**Regarding Claims 6, 17, 33**, Gould discloses the system, method of claims 5, 16, 32. (Gould col 2, ll 31-40: monitoring e-mail messaging; monitor and regulate the number of e-mail messages originating from an IP address; col 2, ll 44-47: take action when rate exceeds a predetermined limit (threshold))

Gould does not explicitly disclose assigning a score.

However, Bandini discloses wherein each rule in the database is assigned a score that is used to determine whether an e-mail message is spam. (Bandini col. 4, lines 50-54; col. 4, lines 63-67: score used for ranking mail messages as spam)

It would have been obvious to one of ordinary skill in the art to modify Gould to assign a score used in spam determination as taught by Bandini. One of ordinary skill in the art would have been motivated to employ the teachings of Bandini to eliminate the ability of spam to consume time and undermine a user's capacity to receive other, desirable messages. (Bandini col. 1, lines 21-26)

**Regarding Claims 7, 18, 34**, Gould discloses the system, method of claims 6, 17, 33.

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(Gould col 2, ll 31-40: monitoring e-mail messaging; monitor and regulate the number of e-mail messages originating from an IP address; col 2, ll 44-47: take action when rate exceeds a predetermined limit (threshold))

Gould does not explicitly disclose raising the score of a rule.

However, Bandini discloses wherein the response generated by the monitor comprises raising the score of a rule corresponding to the originating IP address. (Bandini col. 4, lines 48-52: update score)

It would have been obvious to one of ordinary skill in the art to modify Gould to raising the score of a rule as taught by Bandini. One of ordinary skill in the art would have been motivated to employ the teachings of Bandini to eliminate the ability of spam to consume time and undermine a user's capacity to receive other, desirable messages. (Bandini col. 1, lines 21-26)

10. Claims **11, 12, 22, 23, 28, 29** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Gould-Liu-Cori-Schuba** and further in view of **Lewis et al.** (US PG PUB No. **20030109248**).

**Regarding Claims 11, 22, 28**, Gould discloses the system, method of claims 1, 13, 24. (Gould col 2, ll 31-40: monitoring e-mail messaging; monitor and regulate the number of e-mail messages originating from an IP address; col 2, ll 44-47: take action when rate exceeds a predetermined limit (threshold))

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Gould does not explicitly disclose a maximum total connections parameter.

However, Lewis discloses wherein a maximum total connections parameter. (Lewis para 296, ll 5-7; para 483, ll 2-8: connections)

It would have been obvious to one of ordinary skill in the art to modify Gould to use a maximum total connections parameter as taught by Lewis. One of ordinary skill in the art would have been motivated to employ the teachings of Lewis in order to utilize an improved customer interface for email processing. (Lewis para 009, ll 1-7)

**Regarding Claims 12, 23, 29**, Gould discloses the system, method of claims 1, 13, 24 wherein the monitor determines whether an originating IP address has exceeded a threshold value. (Gould col 2, ll 31-40: monitoring e-mail messaging; monitor and regulate the number of e-mail messages originating from an IP address; col 2, ll 44-47: take action when rate exceeds a predetermined limit (threshold))

Gould does not explicitly disclose maximum connections allowed parameter.

However, Lewis discloses the use of a token bucket algorithm including a rate parameter and maximum connections allowed parameter. (Lewis para 296, ll 5-7; para 483, ll 2-8: connections, rate (per second))

It would have been obvious to one of ordinary skill in the art to modify Gould to use a maximum connections allowed parameter as taught by Lewis. One of ordinary skill in the art would have been motivated to employ the teachings of Lewis to utilize an improved customer interface for email processing. (Lewis para 009, ll 1-7)

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kyung Hye Shin whose telephone number is (571)272-3920. The examiner can normally be reached on 9:30 am - 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia L. Dollinger can be reached on (571) 272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kyung Hye Shin/  
Examiner  
Art Unit 2443

July 17, 2009